

## **REMARKS**

The Office Action mailed June 29, 2009, has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

### **Rejection(s) Under 35 U.S.C. § 112, Second Paragraph**

Claims 1 and 3-7 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claim 1, from which claims 3-7 depend, has been amended to replace “structure” with “substrate” to improve clarity and overcome the rejection under 35 U.S.C. § 112, second paragraph.

### **Rejection(s) Under 35 U.S.C. § 102**

Claims 1, 3 and 8 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. pat. pub. no. 2002/0005581<sup>1</sup> to Kurata (hereinafter, “Kurata”).

Independent claims 1 and 8, from which the remaining claims rejected under 35 U.S.C. § 102 variously directly or indirectly depend, have been amended to recite, for example from claim 1:

... a gate structure having a base zone at a base of the vertical bar, said base zone extending laterally beyond the base of the vertical bar of the T

wherein the gate structure is coated with a shaping material, said shaping material covering the vertical bar of the T, the lower and lateral parts of the horizontal bar of the T, and the base zone of the gate structure including portions thereof extending laterally beyond the base of the vertical bar of the T, said base zone covered by the shaping material covering at least a part of the buried zone of the source and drain zones and not the raised zone of the source and drain zones.

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<sup>1</sup> The Office Action mistakenly identifies the publication number as 2003/0005581 rather than 2002/0005581.

This configuration is clearly in consonance with drawing figures, which show base zone 4 extending laterally beyond the base of the vertical bar 6 of the T, and which further show the covering material that is over this portion of the base zone serving to cover a part of the buried zone of the source and drain zones 16, 18 but not covering the raised zone 30, 32 thereof.

In contradistinction, Kurata's gate oxide portions 2, 12 and 32 alleged to correspond to Applicants' base zone do not extend laterally beyond the base of polycrystal SiGe layer 13, but are rather coterminus with the base or end short of it. In addition, sidewall oxide films 18 alleged to correspond to Applicants' covering material do not actually cover base zone at all, and certainly do not cover "portions thereof extending laterally beyond the base of the vertical bar of the T." Further, Kurata does not show a base zone covered by covering material and covering at least a part of a buried zone of source and drain zones and not a raised zone of the source and drain zones.

It will be appreciated that, according to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102 only if each and every claim element is found, either expressly or inherently described, in a single prior art reference.<sup>2</sup> The aforementioned reasons clearly indicate the contrary, and withdrawal of the 35 U.S.C. § 102 rejection based on Kurata is respectfully urged.

#### **Rejection(s) Under 35 U.S.C. § 103(a)**

Claims 4, 5 and 7 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kurata as applied to claim 1, and further in view of Rodder (U.S. pat. no. 6,246,091; hereinafter, "Rodder")

Claims 6 and 10 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kurata as applied to claim 1, and further in view of Chen et al. (U.S. pat. no. 6,077,733; hereinafter, "Chen").

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<sup>2</sup> Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Claims 4-7 and 10 variously depend, directly or indirectly, from the base claims addressed above. Rodder and Chen fail to remedy the above-mentioned shortcomings of Kurata with respect to the base claims. Accordingly, claims 4-7 and 10, which by definition include all the limitations of the base claims, are patentable over the combination of these references.

### **Conclusion**

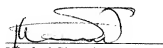
In view of the preceding discussion, Applicants respectfully urge that the claims of the present application define patentable subject matter and should be passed to allowance.

If the Examiner believes that a telephone call would help advance prosecution of the present invention, the Examiner is kindly invited to call the undersigned attorney at the number below.

Please charge any additional required fees, including those necessary to obtain extensions of time to render timely the filing of the instant Amendment and/or Reply to Office Action, or credit any overpayment not otherwise credited, to our deposit account no. 50-3557.

Respectfully submitted,  
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